

(July 12, 1726.)

MEMORIAL

F O R

*Rachel M'Farlane Spouse to Robert Douglas of Cruikstown
Sope-boiler in Leith.*

THAT after a long and tedious Process of Aliment carried on at my Instance against my Husband, wherein there was a Probation adduced of my Maltreatments, your Lordships, upon the 24th of February last, Found me entitled to a separate Aliment, and in the mean Time modified the Sum of Forty Pounds Sterling of interim Aliment, whereof Twenty Pounds to be paid me out of the first and readiest of the Rents of Cruikstown; and impowered me, by way of Roup, to set the Sope-work, Brewery, and other Houses in Leith belonging to my Husband, for a Year, to the highest Offerer; and ordained the other Twenty Pounds to be paid me out of the Rents of the said Houses; and decerned in the above Terms, and against the Tenants of the said Lands and Houses, for Payment of the said Sums.

This Decreet I extracted; and in consequence thereof, upon the Day of March last, being a Sunday, I caused, in the usual Manner, placade upon the most patent Door of the South-Kirk of Leith, an Advertisement containing your Lordships Interlocutor, and intimating the Setting of the Houses by way of Roup, and that upon Thursday thereafter, being the 10th Day of the said Month of March, betwixt the Hours of Two and Four in the Afternoon, in the House of Walter Scot Vintner there, which has been a publick Tavern these Fifty Years. Accordingly James Walker the Town Clerk-depute of Leith, and Procurator-fiscal to the Court, Benjamin Urquhart the Crier of the Process, and who placaded the Church-door, and put Tickets upon the respective Houses, and I, with several Witnesses, attended in the said Vintners House from Two till Four; and no Body comparing, I took Instruments in the said James Walker Notar-publick and Clerk to the Roup his Hands, as the same; with the Execution of Roup duly subscribed by him, lying in the Process, will testify.

Finding that Mr. Douglas had kept the said Houses waste ever since the Commencement of my Process of Aliment, and taken the Custody of the Keys of the said Houses, and stopt any Body from taking the same by Threatnings, I gave in a Petition to the Magistrates of Leith, narrating your Lordships Interlocutor, and craving that the Magistrates would make the Doors open and patent, that Tenants might enter thereto. The Baillies, upon the 29th of the said Month of March, Ordered the same to be intimate to Mr. Douglas, and he to be required to deliver up the Keys, in the Terms of the Petition. Accordingly there was a Protest taken against him, in the Abbey, upon the 31st of the said Month; and thereafter, upon the 2d of April 1726, the Magistrates granted the Desire of my Petition, as the same herewith produced bears.

By vertue of the foresaid Interlocutor of the Baillies, I got Access to the Houses; but finding them all in Disrepair, I employed Deacon Campbell Wright in Leith to repair the same, and fell about the setting of them to any I could prevail upon to take them, and particularly to the Persons after-mentioned: But Mr. Douglas came himself in Person, quarrelled Deacon Campbell for repairing, and took the Keys from the Persons I had set them to, and turn'd them and Workmen out of Doors; and after that, no Body would look near-hand them.

Mr. Douglas having thus disappointed me of setting of the Houses, and contemn'd your Lordships Authority, I waited patiently till the 1st of June, and then I gave in a Petition to your Lordships, representing the above Facts, and craved that your Lordships would allocate upon the Lands of Cruikstown the other 20 L. that were given me out of the Rents of the Houses when set, and to decern Mr. Douglas in a certain Sum for my Expences, I being reduced to great Necessity in carrying on this Process, by his willful and obstinate Opposition. To which Answers being given in by Mr. Douglas, differing widely from the Facts above set forth,

your

your Lordships did remit to the Lord *Kimmergham* Ordinary, *summarily* to enquire into the Facts of my Petition, and to report.

Accordingly I did produce before your Lordships the above-mentioned Interlocutor of the Baillies, and the Instrument taken against Mr. *Douglas* to deliver up the Keys, with the Instrument of Intimation and Execution of the Roup; and adduced the following Witnesses, *viz.* *Mungo Campbell* Wright, who deponed, That he being employed by me to repair some of the Lofts and Windows thereof, Mr. *Douglas* came to him and threatened him, That if he pretended to repair any of the Houses belonging to him, that they two should not live in one Town; and that after that the Deponent would never call a Nail in these Houses. And this was the Truth, as he should answer to G O D.

William Brown Gardener in *Leith* deponed, That five Weeks before *Whitsunday* he took a laigh Room in the Ground-story from Mrs. *Douglas*, of an House in *Leith*, for which he was to pay 9 L. Scots; That he having entred the House sometime before the Term for repairing it, it being a waste House; Mr. *Douglas* the Defender come to the House, and told him, he was to have no House there, and took the Key of the Door from him; and desired him to come out, and told him, neither he nor Mrs. *Douglas* should have that House. And this was the Truth, as he should answer to G O D.

I could have adduced several other Witnesses for proving his Threatnings against every Person that should venture to take the Houses from me, *viz.* Mr. *Robert Fullarton* Comptroller in *Leith*, Baillie *Matthison*, and several others; but I have been so exhausted with Expences in carrying on this Process, that I have not wherewith to subsist my self: And I humbly conceive, what I have represented in my Petition, *viz.* stopping me from setting and repairing of the Houses, is plainly made appear; from which, and the unaccountable Management of my Husband, who stays in the *Abbey* without any Cause, and has these 5 Years and upwards neglected to set his Tenements and others in *Leith*, which would give more than 2000 Merks a Year, it is hoped your Lordships will easily see how justly I am entitled to have my whole Aliment upon the Lands of *Cruikshoun*.

Mr. *Douglas* has thought fit to cangle against my Procedure in rousing and setting of the Houses, as being done in a clandestine Manner, and in a pitiful Alehouse. This is advanced, of Design to bring me to a new Proof, and to weary me out of my Claim: But, from what is already said, and from the Vouchers thereof in the Clerk's Hands, your Lordships will easily see how groundless it is.

Then he alledges, That *William Brown* the Deponent knew nothing of the Roup; and that his pretended Reparations were his filling up of some small Holes in the Floor, where there were three boiling Caldrons; and the setting of that Place would occasion the Sugary to be waste; and that this was long before the Term of *Whitsunday*.

It may be very true, that *William Brown* knew Nothing of the Roup; for it was, after the Roup and the Tickets were put on the Houses, he came and took this low House, which is no Part of the *Soperie*, unless Mr. *Douglas* say that all his laigh Houses in *Leith* are a Part of it: And 'tis as true, that there was no Manner of Furniture in the House, nor had been for many Years before, and that it was in Disrepair, appears to this Day.

As to *Mungo Campbell* the Wright, he says, That he had taken away some Dales of his. It may be so; but if he did, it was only to repair Mr. *Douglas's* own Houses. As to my being in Possession of *Cleugh's* Land, your Lordships would be pleased to know that Fact; *William Brown* of *Dalgourie* left me a Legacy of 7000 Merks exclusive of my Husband's *jus mariti*. Mr. *Douglas* my Husband made several Attempts upon me to give it to him, which I refusing, he began to use me a very harsh & unbecoming Manner, and neglected both me and his Family. I finding that my Peace would be broke if I should disoblige him, & I who had born him 15 Children, and lived with him 34 Years as his married Wife, in a very creditable Manner, complied with his Demand, and gave him frankly my Legacy, *viz.* 5000 Merks thereof to himself, to the Payment of his Debts, or to be disposed upon as he thought fit; and of the other 2000 Merks, I gave one to his eldest Son *William*, and the other to his second Son *Robert*, who had never gotten a Groat from him; and in

in Lieu thereof, he assigned me to the Rents of a Tenement in *Leith*, called *Cleugh's Land*, during my Life, and obliged himself to repair the same, and make it in a tenantable Condition, it being then ruinous. He no sooner got the Money, but he intirely deserted me and his Family, and neglected to repair that Tenement, which forced me to imploy Workmen: And the Account of Reparations which were formerly produced in my Proceſs of Aliment before the Lord Ordinary, amounts to 46. *Lib. Sterling*; and all the Rent which the Tenement produced is 103 *Lib. 10 sh. Scots per Annum*, out of which the publick Burdens and others are to be deduced, and the free Rent is sequestred for Payment of the Workmen, whose Payment will not be compleated for five Years to come; and for the Annualrent of the 2000 Merks which I gave to his Children, they are not in Condition to pay me. And this is the true Fact; so your Lordships will easily judge how I can be subsisted out of that Fund. To my great Grief, my Husband has squandred away that Money with People who shall be nameless, and who has ruined the Peace of our Family, deserted me, and has left me and his Family destitute.

He next insists, That the Lands of *Cruikston* is the only Fund which he has to subsist himself upon; and if I should get the haill 40 *L.* out of that Subject, there would be little behind. Mr. *Douglas* has forgot, that, even during the Currency of this present Proceſs, I made it appear, that he had it in his Power to have of yearly Income 224 *L. 11 sh.* besides 260 *L.* in Moveables: But he forgets all this, or at least conceals it, and pleads Poverty. Besides, when Mr. *Douglas* was in good Humor, and thought fit to mind his Business, he made 5000 Merks of free Profit out of his Sope-work, as he frequently used to say, he being the only Sope-boiler in this Part of *Scotland*, and, I may safely say, understood it best: But now he has dismiss his Servants, and allowed the whole Materials for Sope-making to go to Ruin; so he, and not I, must suffer.

He says, I have no Children to take Care of.

It is very true, the most of his Children are now disperst, and very ill taken Care of: Six of them were a Burden upon me for more than a Twelvemonth, till the Management was by your Lordships Authority taken out of Mr. *Douglas's* Hands; and the youngest Two are still a Burden upon me, one of which Children, viz. *Archibald*, had 3000 Merks of Patrimony left by the Grandfather, which his Father has uplifted: He hath indeed put him to an Apprenticeship, but I have the Burden of furnishing him with Clothes, as may be seen by Mr. *Allardice* Merchant his Accounts in Proceſs. And for the other, she hath neither Patrimony nor daily Provision, but depends wholly on me, and has done so these three Years.

Upon the Whole, since he has obstructed the Setting of the Houses, and wilfully keeps them waste, nothing can be more reasonable than that I should have my haill Aliment modified to me out of the Lands of *Cruikston*.

Inventory of the Lands and Estate of Robert Douglas in Leith.

	<i>Sterling.</i>		
	<i>L.</i>	<i>s.</i>	<i>d.</i>
<i>Imprimis</i> , THE Sugary-house in <i>Leith</i> , lately possess'd by <i>Richard Murray</i> and Company, paid of yearly Rent	55	0	0
<i>Item</i> , The Brewer, Malt-barn and Kiln, as a sufficient Tenant offered lately to him	25	0	0
<i>Item</i> , The Soperly	25	0	0
<i>Item</i> , The adjacent Houses thereto	14	0	0
<i>Item</i> , The Houses in the <i>Canongate</i>	25	0	0
<i>Item</i> , His Houses, Coble, Yards, Shops, and others at <i>Siller-dikes</i>	25	0	0
<i>Item</i> , The Lands of <i>Crookstoun</i> , presently set at	55	11	0
	224	11	0

And this beside 263 *L.* in Moveables, viz. In fine Oil, Salt, and Tree, owing by *Archibald Hamilton*, Timber in the Bush of *Leith*, Lees for making Sope &c. all which has been lying in Proceſs since Commencement of this very Proceſs

Besides, he has 200 *L. Sterling* just now to uplift out of the Lands in *Reftalrig*:

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